

**COMMISSIONERS**  
BOB STUMP – Chairman  
GARY PIERCE  
BRENDA BURNS  
BOB BURNS  
SUSAN BITTER SMITH

OPEN MEETING ITEM



ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION  
DOCKET CONTROL

DATE: DECEMBER 30, 2014

2014 DEC 30 PM 1 58

DOCKET NO.: W-01427A-14-0134; SW-01428A-14-0180; AND W-01412A-14-0262

ORIGINAL

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Sasha Paternoster. The recommendation has been filed in the form of an Opinion and Order on:

LIBERTY UTILITIES (LITCHFIELD PARK WATER AND SEWER), CORP. AND  
VALLEY UTILITIES WATER COMPANY, INC.  
(CC&N EXTENSION)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

JANUARY 8, 2015

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

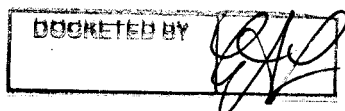
JANUARY 13, 2015 and JANUARY 14, 2015

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission

DOCKETED

DEC 30 2014



*Jodi A. Jerich*  
JODI JERICH  
EXECUTIVE DIRECTOR

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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 BOB STUMP - Chairman  
4 GARY PIERCE  
5 BRENDA BURNS  
6 BOB BURNS  
7 SUSAN BITTER SMITH

8 IN THE MATTER OF THE APPLICATION OF  
9 LIBERTY UTILITIES (LITCHFIELD PARK  
10 WATER AND SEWER), CORP. FOR APPROVAL  
11 OF AN EXTENSION OF ITS CERTIFICATE OF  
12 CONVENIENCE AND NECESSITY TO PROVIDE  
13 WATER UTILITY SERVICE IN MARICOPA  
14 COUNTY, ARIZONA.

DOCKET NO. W-01427A-14-0134

11 IN THE MATTER OF THE APPLICATION OF  
12 LIBERTY UTILITIES (LITCHFIELD PARK  
13 WATER AND SEWER), CORP FOR APPROVAL  
14 OF AN EXTENSION OF ITS CERTIFICATE OF  
15 CONVENIENCE AND NECESSITY TO PROVIDE  
16 WASTEWATER UTILITY SERVICE IN  
17 MARICOPA COUNTY, ARIZONA.

DOCKET NO. SW-01428A-14-0180

15 IN THE MATTER OF THE APPLICATION OF  
16 VALLEY UTILITIES WATER COMPANY, INC.  
17 FOR AN EXTENSION OF ITS CERTIFICATE OF  
18 CONVENIENCE AND NECESSITY TO PROVIDE  
19 WATER UTILITY SERVICE IN MARICOPA  
20 COUNTY, ARIZONA.

DOCKET NO. W-01412A-14-0262

DECISION NO. \_\_\_\_\_

**OPINION AND ORDER**

18 DATE OF HEARING: July 24, 2014 (Procedural Conference) and September  
19 24, 2014 (Evidentiary Hearing)

20 PLACE OF HEARING: Phoenix, Arizona

21 ADMINISTRATIVE LAW JUDGE: Sasha Paternoster

22 APPEARANCES: Mr. Patrick Black, FENNEMORE CRAIG, P.C., on  
23 behalf of Liberty Utilities (Litchfield Park Water and  
24 Sewer), Corp.

25 Mr. Robert J. Metli, MUNGER CHADWICK, P.L.C.,  
26 on behalf of Valley Utilities Water Company;

27 Mr. William E. Lally, TIFFANY & BOSCO, P.A., on  
28 behalf of TRS 8, LLC; and

Mr. Matthew Laudone and Mr. Wesley Van Cleve, Staff  
Attorneys, Legal Division, on behalf of the Utilities  
Division of the Arizona Corporation Commission.

**BY THE COMMISSION:**

On April 17, 2014, Liberty Utilities (Litchfield Park Water and Sewer), Corp. ("Liberty" or "Company")<sup>1</sup> filed with the Arizona Corporation Commission ("Commission"), in Docket No. W-01427A-14-0134, an application requesting that the Commission approve an extension of its current Certificate of Convenience and Necessity ("CC&N") to provide water utility service to a new area known as Marbella Ranch development in Maricopa County, Arizona ("Water Docket").

On May 2, 2014, Liberty filed, in the Water Docket, a Notice of Filing that included copies of the written notice provided to all municipal managers within a five (5) mile radius of the proposed extension area regarding Liberty's water CC&N extension application on file with the Commission.

On May 13, 2014, Liberty caused a letter to be docketed, in the Water Docket, stating Liberty agreed with the Commission's Utilities Division ("Staff") to suspend the sufficiency review to allow the Company to file its related application for an extension of its current wastewater CC&N, and indicating that a joint review by Staff of both the water and wastewater applications would be more expeditious.

On May 19, 2014, Liberty filed, in the Water Docket, a Notice of Errata correcting errors in its Legal Description and Master Water Report.

On June 3, 2014, Liberty filed with the Commission, in Docket No. SW-01428A-14-0180, an application requesting that the Commission approve an extension of its current wastewater CC&N ("Wastewater Docket") to provide wastewater utility service to the same general area requested in its Water Docket application.

On June 4, 2014, Liberty filed, in the Wastewater Docket, an Amended Application For Extension of its wastewater CC&N.

On June 5, 2014, Liberty filed, in both the Water and Wastewater Dockets, a motion to consolidate the dockets. Liberty stated that, by consolidating both proceedings, resources would be better utilized as both dockets involve the extension of both the Company's water and wastewater CC&Ns to serve the same area known as Marbella Ranch development.

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<sup>1</sup>In 2013, Liberty changed its name from Litchfield Park Service Company dba Liberty Utilities to Liberty Utilities (Litchfield Park Water & Sewer) Corp. See Decision No. 74437 (April 18, 2014).

1 On June 13, 2014, by Procedural Order, the Water and Wastewater Dockets were  
2 consolidated ("Consolidated Liberty Docket").

3 On June 18, 2014, Valley Utilities Water Company, Inc. ("Valley") filed an Application for  
4 Leave to Intervene and Notice of Intent, stating it intended to file a competing application for  
5 extension of its water CC&N to serve the Marbella Ranch development. No objections were filed in  
6 opposition to Valley's request for intervention.

7 On June 30, 2014, by Procedural Order, Valley was granted intervention in the Consolidated  
8 Liberty Docket.

9 On July 3, 2014, Staff filed a Sufficiency Letter in the Consolidated Liberty Docket, stating  
10 that Liberty's applications for extensions of its water and wastewater CC&Ns had met the sufficiency  
11 requirements as outlined in the Arizona Administrative Code ("A.A.C.").

12 On July 10, 2014, Valley filed its competing application in Docket No. W-01412A-14-0262,  
13 requesting an extension of Valley's water CC&N to provide service to the Marbella Ranch  
14 development ("Valley Docket").

15 Also on July 10, 2014, a Procedural Order was issued scheduling a hearing in the  
16 Consolidated Liberty Docket for September 3, 2014, and setting other procedural deadlines.

17 On July 15, 2014, Valley filed a Request for Procedural Conference to discuss potential  
18 scheduling issues given the filing of its competing application.

19 On July 17, 2014, by Procedural Order, a Procedural Conference was scheduled for July 24,  
20 2014.

21 On July 18, 2014, Liberty filed a Notice of Filing that included copies of the written notice  
22 provided to all municipal managers within a five (5) mile radius of the proposed extension area  
23 regarding Liberty's wastewater CC&N extension application on file with the Commission.

24 Also on July 18, 2014, Valley filed a Motion to Appear Telephonically for the July 24, 2014,  
25 procedural conference stating that its counsel would be out of the state from July 23-25, 2014. By  
26 Procedural Order dated July 21, 2014, the Motion was granted and the time clock suspended.

27 On July 23, 2014, TRS 8, LLC ("TRS 8"), which is the developer for Marbella Ranch, filed  
28 public comment indicating that TRS 8 requests water and sewer services from Liberty and that TRS 8

1 did not request water services from Valley.

2 On July 24, 2014, a Procedural Conference was held as scheduled to address potential  
3 scheduling conflicts as a result of Valley's filing its competing application to serve the proposed  
4 extension area. Liberty, Valley, and Staff each appeared through counsel. At the conference, Staff  
5 indicated consolidation of the matters was preferred so as not to strain Staff's finite resources. Valley  
6 also sought to have the matters consolidated, but believed it was premature to consolidate the dockets  
7 prior to its application being found sufficient.

8 On July 31, 2014, Staff filed a Sufficiency Letter in the Valley Docket, stating Valley's  
9 application for an extension of its CC&N to provide water service had met the A.A.C. sufficiency  
10 requirements.

11 On August 5, 2014, Valley filed, in the Consolidated Liberty Docket and the Valley Docket, a  
12 motion to consolidate. Valley stated that the issues raised in each of the dockets are substantially the  
13 same and that no party would be prejudiced by consolidation.

14 On August 7, 2014, by Procedural Order, the Consolidated Liberty Docket and the Valley  
15 Docket were consolidated ("Consolidated Docket"). The Procedural Order reset the procedural  
16 schedule on these consolidated matters, setting the hearing for September 24, 2014, and establishing  
17 other procedural deadlines.

18 On August 12, 2014, a Procedural Order was issued resetting publication and mailing  
19 deadlines for Liberty.

20 On August 22, 2014, Valley filed a Franchise Agreement Between Valley Utilities Water  
21 Company, Inc. and Maricopa County. Also on this date, Valley filed Affidavits of Mailing and  
22 Publication of Public Notice.

23 On August 29, 2014, Staff filed a Request for an Extension of Time to File Staff Report,  
24 requesting an extension of the time deadline from August 29, 2014 to September 5, 2014, to file the  
25 Staff Report. Staff's request stated it had consulted with counsel for both Liberty and Valley and  
26 neither had an objection to the extension of the time deadline.

27 On September 2, 2014, by Procedural Order, Staff's Request for an Extension of Time to File  
28 Staff Report from August 29, 2014 to September 5, 2014 was granted.

On that same date, TRS 8 filed an Application for Leave to Intervene.

On September 4, 2014, Staff filed its Staff Report, recommending approval of Liberty's applications subject to certain conditions.

On September 11, 2014, Liberty filed its Certification of Publication and Proof of Mailing Notice.

On September 19, 2014, by Procedural Order, TRS 8 was granted intervention.

On September 24, 2014, the hearing in this matter was held as scheduled before a duly authorized Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. Liberty, Valley, TRS 8, and Staff appeared through counsel and no members of the public appeared to present public comment. The parties presented evidence and testimony during the hearing. At the conclusion of the hearing, the parties were instructed to file Closing Briefs, by October 17, 2014, in lieu of closing arguments.

On October 15, 2014, one public comment in support of Valley's application was docketed.

On October 17, 2014, the parties filed Closing Briefs.

Thereafter, this matter was taken under advisement pending submission of a Recommended Opinion and Order to the Commission.

\* \* \* \* \*

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

### **FINDINGS OF FACT**

#### **I. Background**

1. Liberty is an Arizona "C" corporation that provides water and wastewater utility service to the public in communities within the cities of Litchfield Park, Goodyear, and Avondale, and in adjacent unincorporated areas of Maricopa County in the west Phoenix valley, west of the Agua Fria River and north of Interstate Highway 10. Liberty is a Class A public service corporation pursuant to the A.A.C. Liberty has approximately 18,400 water customers and approximately 20,500

1 wastewater customers.<sup>2</sup>

2       2.     Liberty, an Arizona corporation, is owned by Liberty Utilities, a Delaware  
3 corporation, through its operating subsidiary Liberty Utilities (West). Liberty's ultimate parent is  
4 Algonquin Power & Utilities Corp., a Canadian corporation whose shares are traded on the Toronto  
5 Stock Exchange.<sup>3</sup>

6       3.     Valley is a family-owned, closely held Arizona "C" corporation. Valley provides  
7 water utility service, pursuant to a CC&N granted by the Commission in 1954, to approximately  
8 1,450 connections in an approximately five-square-mile unincorporated area of Maricopa County  
9 located east of Luke Air Force Base.<sup>4</sup>

10       4.     On April 17, 2014 and June 3, 2014, Liberty filed applications for an extension of its  
11 current CC&N to provide water and wastewater utility service, respectively, to what is to be the  
12 subdivision known as Marbella Ranch in Maricopa County, Arizona, the legal description of which is  
13 set forth in Exhibit A, attached hereto and incorporated herein by reference.

14       5.     On June 18, 2014, Valley filed a competing application to extend its CC&N to provide  
15 water utility service to the Marbella Ranch development.

16       6.     Liberty and Valley are requesting Commission approval to extend their water CC&Ns  
17 to serve a 365 acre property (approximately  $\frac{3}{4}$  of a square mile) in Maricopa County, of which  
18 approximately 248 acres will be Marbella Ranch Subdivision and approximately 117 acres will be  
19 restricted use land. Liberty has also requested extension of its wastewater CC&N to serve the  
20 proposed area.

21       7.     The proposed extension area is located on El Mirage Road alignment between  
22 Glendale Avenue and Northern Avenue, in Section 2 of Township 2 North, Range 1 West, in an  
23 unincorporated area of Maricopa County west of Luke Air Force Base.<sup>5</sup> Liberty's current CC&N is  
24 not contiguous with the proposed extension area, while Valley's existing CC&N is contiguous on the  
25 east and south sides of the proposed extension area.<sup>6</sup>

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26 <sup>2</sup> Exhibit S-1 at 1.

27 <sup>3</sup> Id.

27 <sup>4</sup> Id.

27 <sup>5</sup> Id. at 2.

28 <sup>6</sup> Id.

1           8.     The requested area is to be developed in two phases, with the southern portion  
2 encompassing Phase I to include 600 single family homes and the northern portion encompassing  
3 Phase II to include 660 dwelling units (300 single family homes and 360 apartment units) as well as a  
4 50.5 acre industrial parcel.

5           9.     According to Liberty, all utility construction for Phase I will be completed in year one  
6 and all utility construction for Phase II will be completed in year two.<sup>7</sup> Valley did not provide a  
7 complete engineering plan or a projected construction schedule but stated it was adopting Liberty's  
8 plan.<sup>8</sup>

9           10.    The Marbella Ranch development is intended as an entry level community for first  
10 time homebuyers and, as the property owner, TRS 8 is concerned with the ultimate costs to future  
11 homeowners.<sup>9</sup> When analyzing which service provider would be better suited to serve Marbella  
12 Ranch, TRS 8 considered the costs to the developer and the eventual homebuyer.<sup>10</sup>

13          11.    Liberty has received a request for service to provide water and wastewater service  
14 from the developer and property owner, TRS 8, which covers the entire proposed extension area.  
15 TRS 8 did not request water service from Valley. Liberty is willing to provide wastewater utility  
16 service to the proposed extension area if Valley is awarded the extension of its water CC&N to serve  
17 the Marbella Ranch development. However, Liberty states as a condition to only providing  
18 wastewater services, each home will need to be equipped with a sewer shut off valve at a cost of \$250  
19 to \$400 per home.<sup>11</sup>

20          12.    Liberty and Valley have an existing working relationship as Liberty provides  
21 wastewater utility services to approximately 49 percent of Valley's current water customers.<sup>12</sup>  
22 According to Liberty, there has been an occasion where a Valley water customer failed to pay their  
23 sewer bill and, given the absence of a sewer shut off valve, Liberty was forced to arrange a backhoe  
24  
25

26 <sup>7</sup> Exhibit S-1, Attachment A at 3.

27 <sup>8</sup> Id.

28 <sup>9</sup> Tr. at 113.

<sup>10</sup> Id.

<sup>11</sup> Liberty's Closing Brief at 8.

<sup>12</sup> Testimony of Robert L. Prince at 6.



1 to dig up the sewer line in order to terminate service.<sup>13</sup>

2 13. The present case is one of the first CC&N extension requests to be brought before the  
3 Commission since changes were made to the applicable rules in January 2010. The relevant changes  
4 require comprehensive documentation to demonstrate the financial condition of the applicant so that  
5 Staff may make appropriate financing recommendations to ensure the applicant's continued  
6 viability.<sup>14</sup>

7 14. According to Staff, an over-reliance on advances in aid of construction ("AIAC") and  
8 contributions in aid of construction ("CIAC") can lead to a utility not having a sufficient rate base to  
9 earn a reasonable rate of return.<sup>15</sup> To ensure a company remains financially viable, Staff stated it  
10 generally recommends that private, investor-owned utilities have a combined AIAC and net CIAC  
11 funding ratio not in excess of 30 percent of total capital.<sup>16</sup>

12 15. As a result of the rule changes and the information provided by Liberty and Valley to  
13 comply with those changes, Staff had the ability to review both companies' current capital structures  
14 and make recommendations on how to fund future infrastructure.

## 15 **II. Liberty's Application**

### 16 **Existing/Proposed Water System**

17 16. Liberty's existing water system consists of 12 wells, three arsenic treatment facilities,  
18 two storage tanks, three booster systems, and a distribution system that serves approximately 18,500  
19 customers.<sup>17</sup>

20 17. Staff concluded that Liberty's water system, with a total source capacity of 13,100  
21 gallons per minute ("GPM") and storage capacity of 10.6 million gallons ("MG"), has adequate well  
22 production and storage capacity to serve Liberty's existing customers and reasonable growth in the  
23 proposed extension area.<sup>18</sup>

24  
25 <sup>13</sup> Tr. at 27, 33. Where a sewer customer fails to pay its bill in an integrated system, the provider may shut off both water and wastewater service. In the absence of a sewer shut off valve in a bifurcated water/wastewater provider scenario, the sewer line must be physically dug up to terminate service to a customer who has not paid their bill.

26 <sup>14</sup> See A.A.C. R14-2-402(B).

27 <sup>15</sup> Exhibit S-1, Attachment C at 3.

28 <sup>16</sup> Id.

<sup>17</sup> Exhibit S-1, Attachment A at 10.

<sup>18</sup> Id.

1        18.     Liberty estimated a total combined cost for Phases I and II of the extension area of  
2 approximately \$7,774,363 for additional water plant facilities needed to serve the proposed extension  
3 area.<sup>19</sup>

4        19.     Staff reviewed the proposed costs for the water system and found them to be  
5 reasonable.<sup>20</sup> However, Staff stated it did not make a "used and useful" determination for the  
6 proposed plant-in-service and no conclusions should be inferred for rate making or rate base  
7 purposes.<sup>21</sup>

8        20.     Liberty will charge its existing water rates in the proposed extension area. Liberty's  
9 current base water rates for service are: \$13.26 for 5/8 x 3/4 inch meters; \$13.26 for 3/4 inch meters;  
10 and \$29.84 for 1 inch meters.<sup>22</sup> Liberty's typical monthly residential bill for a 3/4 inch meter with a  
11 customer with median usage of 8,000 gallons is approximately \$25.<sup>23</sup>

12        21.     Staff states that Maricopa County Environmental Services Department ("MCESD")<sup>24</sup>  
13 has determined that Liberty's water system is in compliance and is currently delivering water that  
14 meets water quality standards as determined by the A.A.C.<sup>25</sup>

15        22.     The Liberty water system is located in the Phoenix Active Management Area  
16 ("AMA") and the Arizona Department of Water Resources ("ADWR") has determined that the  
17 system is in compliance with its requirements governing water providers and/or community water  
18 systems.<sup>26</sup>

19        23.     Staff reported that there are no delinquent Commission compliance items for  
20 Liberty.<sup>27</sup>

21        24.     Liberty has an approved water Offsite Hookup Fee Tariff on file with the  
22 Commission.<sup>28</sup>

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24        <sup>19</sup> Id. at 4-6.

25        <sup>20</sup> Id. at 6.

26        <sup>21</sup> Id.

27        <sup>22</sup> Liberty's Closing Brief at 6-7.

28        <sup>23</sup> Tr. at 113.

<sup>24</sup> MCESD is the formally delegated agent of the Arizona Department of Environmental Quality.

<sup>25</sup> Exhibit S-1, Attachment A at 11.

<sup>26</sup> Id. at 12.

<sup>27</sup> Id.

<sup>28</sup> Id. at 13.

1 **Existing/Proposed Wastewater System**

2 25. According to Staff's Engineering Report, Liberty owns and operates the Palm Valley  
3 Water Reclamation Facility ("WRF"), two lift stations, and a collection system.<sup>29</sup>

4 26. Staff states the Palm Valley WRF has a treatment capacity of 5.1 million gallons per  
5 day and consists of raw sewage inflow lift stations, headworks, grit removal, equalization basin, three  
6 sequential batch reactors, four tertiary disk filters, seven UV disinfection trains, and a backup  
7 disinfection system of chlorination/dechlorination unit.<sup>30</sup>

8 27. According to Staff, the Arizona Department of Environmental Quality ("ADEQ")  
9 allows final treated effluent for reuse via Arizona Aquifer Permit Nos. 47746 and 53068.<sup>31</sup> Liberty  
10 disposes of final effluent on different reuse sites or into the Roosevelt Irrigation District Canal via  
11 Arizona Pollutant Discharge Elimination System Permit No. 45829.<sup>32</sup>

12 28. Staff concluded that Liberty's wastewater system will have adequate capacity to serve  
13 Liberty's existing customers as well as reasonable growth in the extension area.<sup>33</sup>

14 29. Liberty submitted the proposed costs for wastewater facilities needed to serve the  
15 requested extension area. Liberty's projections estimate a total combined cost for Phases I and II of  
16 approximately \$4,313,652 for wastewater facilities in the requested extension area.<sup>34</sup>

17 30. Staff concluded that Liberty's proposed cost to construct facilities needed to serve the  
18 extension area is reasonable. However, Staff stated it did not make a "used and useful" determination  
19 for the proposed plant-in-service and no conclusions should be inferred for rate making or rate base  
20 purposes.<sup>35</sup>

21 31. Liberty will charge its existing wastewater rates in the proposed extension area.<sup>36</sup>

22 32. ADEQ's Compliance Status Report dated July 10, 2014, indicated that the Palm  
23 Valley WRF was not in full compliance<sup>37</sup> but was not in violation at a level at which ADEQ will take

24 <sup>29</sup> Id. at 11.

25 <sup>30</sup> Id.

26 <sup>31</sup> Id.

27 <sup>32</sup> Id.

28 <sup>33</sup> Id.

<sup>34</sup> Id. at 8-10.

<sup>35</sup> Id. at 10.

<sup>36</sup> Exhibit S-1 at 4.

<sup>37</sup> According to Staff, the violations were a result of turbidity and E Coli exceeding limits.

1 action or issue a Notice of Opportunity to Correct or Notice of Violation and/or is in compliance with  
2 the Order/Judgment.<sup>38</sup>

3 33. Liberty has an approved wastewater Offsite Hookup Fee Tariff, Curtailment and  
4 Backflow/Cross Connection Tariffs, and ten approved Best Management Practice ("BMP") Tariffs on  
5 file with the Commission.<sup>39</sup>

## 6 **Financing**

7 34. Liberty proposes to finance the water and wastewater infrastructure needs with a  
8 combination of contributions, advances, and equity.<sup>40</sup> At hearing, Gregory Sorenson, the president of  
9 Liberty for Arizona and Texas, estimated the total cost for water and wastewater infrastructure in the  
10 extension area would be funded with 60-65 percent of non-CIAC or AIAC funds.<sup>41</sup>

11 35. Mr. Sorenson testified that Liberty's current capital structure is roughly 80-85 percent  
12 equity and 15-20 percent debt.<sup>42</sup> Mr. Sorenson further testified that Liberty's most recent rate case  
13 utilized a 2012 test year and determined the water and sewer combined rate base is approximately  
14 \$57 million.<sup>43</sup>

15 36. Staff indicated that Liberty's combined total AIAC and net CIAC results in 44 percent  
16 of total capital for its water system.<sup>44</sup> Staff stated Liberty's wastewater system has a combined AIAC  
17 and net CIAC of 61 percent of total capital.<sup>45</sup> Liberty's pro-forma (including the proposed CC&N  
18 extension) combined AIAC and net CIAC funding ratio for the water system is 43 percent and 59  
19 percent for the wastewater system.<sup>46</sup>

## 20 **Staff's Recommendations**

21 37. Staff is recommending the Commission approve Liberty's application for extension of  
22 its CC&N to provide water and wastewater service, subject to conditions. Liberty objected to Staff's  
23 original Recommendation No. 5 as it conflicted with its hook-up fee tariff. As a result, Staff

24 <sup>38</sup> Exhibit S-1, Attachment A at 12.

25 <sup>39</sup> Exhibit S-1 at 4; Exhibit S-1, Attachment A at 13.

26 <sup>40</sup> Exhibit S-1 at 3-4.

27 <sup>41</sup> Tr. at 46.

28 <sup>42</sup> Id. at 44.

<sup>43</sup> Id. at 46-47.

<sup>44</sup> Exhibit S-1, Attachment C at 2.

<sup>45</sup> Id.

<sup>46</sup> Id.

1 amended its original recommendation relating to the funding of future infrastructure. Staff's final  
2 recommendations are as follows:

- 3 1) That Liberty charge its existing rates and charges in the proposed extension area.
- 4 2) That Liberty file with Docket Control, a copy of the Certificate of Approval to  
5 Construct ("ATC") for Phase I water plan as a compliance item in this docket no  
6 later than December 31, 2015.
- 7 3) That Liberty file with Docket Control, a copy of the ATC for Phase I wastewater  
8 plan as a compliance item in this docket no later than December 31, 2015.
- 9 4) That Liberty file with Docket Control, a copy of the county franchise agreement  
10 for the extension area as a compliance item in this docket no later than December  
11 31, 2015.
- 12 5) That Liberty fund its future infrastructure needs with 70 percent equity and no  
13 more than 30 percent AIAC and CIAC combined, subject to Liberty's applicable  
14 water and wastewater hook-up fee tariffs.

15 38. Staff further recommends that the Commission's Decision granting this extension of  
16 Liberty's CC&N be considered null and void, after due process, should Liberty fail to meet  
17 Conditions Nos. 2, 3, and 4, within the time specified.

### 18 **III. Valley's Application**

#### 19 **Existing/Proposed Water System**

20 39. Valley's existing water system consists of seven active wells, two arsenic treatment  
21 facilities, six storage tanks, and a distribution system that serves approximately 1,450 customers.<sup>47</sup>

22 40. Staff concluded that Valley's water system, with a total source capacity of 1,530 GPM  
23 and storage capacity of 2.06 MG, has adequate well production and storage capacity to serve Valley's  
24 existing customers and reasonable growth in Phase I of the proposed extension area. Staff stated an  
25 additional water source will be needed to serve customers in Phase II of the requested area but Valley  
26 stated Well No. 1 would provide adequate production.<sup>48</sup>

27 \_\_\_\_\_  
28 <sup>47</sup> Exhibit S-1, Attachment A at 10-11.

<sup>48</sup> Id. at 11.

1 41. Valley estimated a total combined cost for Phases I and II of approximately  
2 \$7,450,762<sup>49</sup> for additional water plant facilities needed to serve the proposed extension area.<sup>50</sup>

3 42. Valley states it entered into a Main Extension Agreement with the City of Glendale,  
4 which provides water service to the Northern Parkway via a water main on Dysart Road, that  
5 envisions development on the east and west side of Dysart as established by the reimbursement  
6 provision.<sup>51</sup> In its Closing Brief, Valley also points out that it has pre-existing water mains on the  
7 south and west sides of the proposed extension areas.

8 43. Staff reviewed Valley's proposed costs for the water system and found them to be  
9 reasonable. However, Staff stated it did not make a "used and useful" determination for the proposed  
10 plant-in-service and no conclusions should be inferred for rate making or rate base purposes.<sup>52</sup>

11 44. If awarded the CC&N, Valley will charge its existing water rates in the proposed  
12 extension area. Valley's current base water rates for service are: \$18.40 for 5/8 x 3/4 inch meters;  
13 \$27.60 for 3/4 inch meters; and \$46.00 for 1 inch meters.<sup>53</sup> Valley's typical monthly residential bill  
14 for a 3/4 inch meter with a median usage of 8,000 gallons is approximately \$46.<sup>54</sup>

15 45. Staff stated that MCESD has determined that Valley's water system is in compliance  
16 and is currently delivering water that meets water quality standards as determined by the A.A.C.<sup>55</sup>

17 46. Valley's water system is located in the Phoenix AMA and ADWR has determined that  
18 the system is in compliance with its requirements governing water providers and/or community water  
19 systems.<sup>56</sup>

20 47. Staff reported that there are no delinquent Commission compliance items for Valley.<sup>57</sup>

21 48. Valley has an approved Curtailment and Backflow/Cross Connection Tariff on file  
22 with the Commission.<sup>58</sup>

23 <sup>49</sup> This amount is inclusive of Liberty's estimated on-site water expenses, given Valley's adoption of Liberty's on-site  
24 construction plan.

<sup>50</sup> Id. at 6-7.

<sup>51</sup> Valley's Closing Brief at 2.

<sup>52</sup> Exhibit S-1, Attachment A at 6.

<sup>53</sup> Liberty's Closing Brief at 6-7.

<sup>54</sup> Tr. at 113.

<sup>55</sup> Exhibit S-1, Attachment A at 11.

<sup>56</sup> Id. at 12.

<sup>57</sup> Id.

<sup>58</sup> Id.

49. Valley has five approved BMP Tariffs on file with the Commission.<sup>59</sup>

50. Valley docketed a copy of the franchise agreement it has with Maricopa County covering the proposed extension area.

#### **Financing**

51. Valley proposes to finance the water facilities entirely with AIAC.<sup>60</sup>

52. According to Staff, Valley's water system has a combined total AIAC and net CIAC of 76 percent of total capital.<sup>61</sup> Valley's pro-forma (including the proposed CC&N extension) combined AIAC and net CIAC funding ratio is 88 percent.<sup>62</sup>

#### **Staff's Recommendations**

53. Staff provided recommendations in the event the Commission decides to grant Valley's application for extension of its CC&N to provide water service. Staff recommends the approval should be subject to the following conditions:

- 1) That Valley charge its existing rates and charges in the proposed extension area.
- 2) That Valley file with Docket Control, a copy of the ATC for Phase I water plan as a compliance item in this docket no later than December 31, 2015.
- 3) That Valley fund the entire construction costs with equity.

54. Staff further recommends that the Commission's Decision granting this extension of CC&N to Valley be considered null and void, after due process, should Valley fail to meet Condition No. 2 within the time specified.

#### **IV. Discussion**

55. Staff concluded that both Liberty and Valley are fit and proper entities to extend their respective CC&Ns, but is recommending that the Commission approve Liberty's applications. Staff stated that there are several advantages to awarding the CC&N to Liberty's integrated water and wastewater system. Staff considered the efficiencies of a combined bill, centralized customer service, the ability to share the costs of plant purchases, engineering services, and insurance, as well

<sup>59</sup> Id.

<sup>60</sup> Exhibit S-1 at 3-4.

<sup>61</sup> Id.

<sup>62</sup> Id.

1 as the ease of disconnecting service for the nonpayment of utility bills, to support its belief that an  
2 integrated system of a single utility will be more efficient than the provision of water/wastewater  
3 service provided by separate entities. Staff also pointed to Liberty's request for service from the  
4 developer, Liberty's lower water rates, and the simplicity in which Liberty's unified water and  
5 wastewater system could comply with groundwater management requirements compared to the water  
6 and wastewater combination of Valley and Liberty.<sup>63</sup>

7         56. Despite Liberty's ongoing objections, Staff continues to recommend Liberty fund the  
8 infrastructure needed to serve the extension area with 70 percent equity and no more than 30 percent  
9 combined AIAC and CIAC, subject to its applicable hook-up fee tariffs, to provide a better balance of  
10 financial risk for Liberty and its ratepayers.<sup>64</sup>

11         57. Although Staff recommends approval of Liberty's application to extend its water  
12 CC&N, Staff sees Valley as a "viable alternative" given the close proximity of Valley's existing  
13 CC&N to the extension area, the economies of scale the proposed increase would create for Valley,  
14 and that this is the last contiguous parcel of land to which Valley could expand its service area.<sup>65</sup>

15         58. Liberty agrees with Staff that its integrated water and wastewater system will be the  
16 best way to serve the interests of the developer and future homeowners. Liberty asserts that the  
17 inherent efficiencies of a combined system, TRS 8's request for Liberty to provide service, Liberty's  
18 lower utility rates, the redundancies in its larger system that can provide uninterrupted service, and its  
19 greater access to financial markets, better serve the public interest.

20         59. Liberty disagrees with Staff as it relates to the financing restrictions for new water and  
21 wastewater infrastructure to be used to serve Marbella Ranch. Liberty argues that Staff's  
22 recommendation is inappropriate within the confines of a CC&N hearing, unnecessary given  
23 Liberty's healthy financial position, incongruous if Liberty is forced to finance utility infrastructure  
24 that is not given a "used and useful" determination, and improper as it is seen as an attempt to  
25 manage Liberty's internal business affairs.<sup>66</sup> Staff responds that Commission-directed funding

26 \_\_\_\_\_  
27 <sup>63</sup> Exhibit S-1 at 6.

<sup>64</sup> Staff's Closing Brief at 6.

<sup>65</sup> Id. at 4.

28 <sup>66</sup> Liberty's Closing Brief at 9-13.



1 restrictions do not establish whether plant constructed was prudent and, therefore, "used and useful."  
 2 Instead, Staff argues that those restrictions are an exercise of the Commission's exclusive ratemaking  
 3 authority that protect the ratepayers' interests.<sup>67</sup>

4 60. TRS 8 supports Liberty's applications to extend its water and wastewater CC&Ns to  
 5 serve Marbella Ranch and indicates that it would "reevaluate its options" if Liberty is not granted the  
 6 CC&N. TRS 8 explains ownership preference, Valley's inability to serve, affordable rates for  
 7 customers, and public interest benefits strongly favors awarding Liberty the water CC&N.<sup>68</sup>

8 61. Valley asserts it is fit and proper to serve the proposed extension area and states  
 9 granting it the water CC&N would be in the public interest given the positive impact the extension  
 10 would have on Valley. Valley states its customer base would increase by 87 percent and its rate base  
 11 would increase by 421 percent, which would allow Valley to benefit from economies of scale and  
 12 assist in a healthier financial structure.<sup>69</sup> Additionally, Valley has offered to enter into a water shut  
 13 off agreement to abate concerns over the non-payment of sewer bills in a bifurcated system.<sup>70</sup>

14 62. Valley is opposed to Staff's recommendation which would require Valley to finance  
 15 needed utility infrastructure with 100 percent equity if awarded the water CC&N for Marbella Ranch  
 16 and indicated it would be "very difficult" for it to satisfy that recommendation.<sup>71</sup> Valley states that  
 17 such a recommendation quashes the ability of smaller water companies to grow, giving larger  
 18 companies a considerable advantage.<sup>72</sup> Staff commends Valley's financial improvements of  
 19 changing its negative equity position to a positive one and asserts that allowing Valley to fund the  
 20 entire project using only AIAC could minimize the financial gains Valley has made.<sup>73</sup>

21 63. Staff proposed an alternative recommendation in which the company awarded the  
 22 water CC&N can choose how to finance the plant as long as it does not worsen the current percentage  
 23 of combined AIAC and CIAC, but the Company must docket a plan by July 31, 2015, showing how  
 24

25 <sup>67</sup> Staff's Closing Brief at 10.

26 <sup>68</sup> TRS 8's Closing Brief at 2-4.

26 <sup>69</sup> Valley's Closing Brief at 3-4.

27 <sup>70</sup> Id. at 6.

27 <sup>71</sup> Tr. at 105.

27 <sup>72</sup> Valley's Closing Brief at 4-5.

28 <sup>73</sup> Staff's Closing Brief at 9.

1 it will meet and maintain a 70 percent equity to 30 percent AIAC/CIAC ratio.<sup>74</sup> Neither Liberty or  
2 Valley support Staff's alternative recommendation.<sup>75</sup>

3 **V. Analysis**

4 64. We agree with Staff that, given the totality of the circumstances in the present case,  
5 the public interest will be better served by awarding Liberty an extension of its water and wastewater  
6 CC&Ns. We base that determination on the myriad of factors weighing in Liberty's favor: 1) an  
7 integrated water and wastewater system that allows for a single bill and a centralized customer  
8 service department, resulting in lower cost of service expense; 2) a larger system with redundancies  
9 that may enhance the ability to maintain uninterrupted service; 3) ability to more easily share  
10 customer information to account for groundwater credits; 4) greater access to capital markets; 5)  
11 lower costs to future homeowners via lower water rates and avoided costs (i.e., the avoidance of costs  
12 associated with installing a sewer shut off valve in the event of bifurcated service); and 6) a request  
13 for service from the developer of the extension area.

14 65. Further, we find Staff's recommendation relating to how Liberty should fund its future  
15 infrastructure unnecessary in this instance given that Liberty is a small component of its substantially  
16 larger parent company which has access to the capital markets. In addition, Liberty's proposal to  
17 finance plant for this project using 60-65 percent non-AIAC or CIAC funds maintains its current  
18 capital structure and Staff recognizes that Liberty's risk for rate base erosion is minimal.<sup>76</sup> Based on  
19 the foregoing, we decline to adopt Staff's recommendation 5 or Staff's alternative recommendation.

20 66. Staff's recommendations, as modified herein, are reasonable and should be adopted.

21 **CONCLUSIONS OF LAW**

22 1. Liberty and Valley are public service corporations within the meaning of Article XV  
23 of the Arizona Constitution and A.R.S. §§ 40-281, 40-282, and 40-252.

24 2. The Commission has jurisdiction over Liberty and Valley and the subject matter of  
25 their applications.

26 3. Notice of the applications was provided in accordance with the law.

27 <sup>74</sup> Tr. at 145.

28 <sup>75</sup> Liberty's Closing Brief at 10, footnote 23.

<sup>76</sup> Staff's Closing Brief at 7.

4. There is a public need and necessity for public water and wastewater utility service in the proposed area described in Exhibit A.

5. Liberty is a fit and proper entity to receive an extension of its water and wastewater CC&N.

6. The application to extend Liberty's water and wastewater CC&N for the area described in Exhibit A should be granted subject to the recommendations of Staff as set forth in Findings of Fact Nos. 37 and 38 hereinabove, as modified herein.

7. The application of Valley should be denied.

## ORDER

IT IS THEREFORE ORDERED that the application of Liberty Utilities (Litchfield Park Water and Sewer), Corp. for an extension of its water and wastewater Certificates of Convenience and Necessity in the area more fully described in Exhibit A be, and is hereby approved, subject to the conditions and requirements in the following Ordering Paragraphs.

IT IS FURTHER ORDERED that Liberty Utilities (Litchfield Park Water and Sewer), Corp. shall charge its authorized rates and charges in the extension area until further Order of the Commission.

IT IS FURTHER ORDERED that Liberty Utilities (Litchfield Park Water and Sewer), Corp. shall file, as a compliance item in this docket, no later than December 31, 2015, a copy of the Certificate of Approval to Construct for Phase I of the extension area for water infrastructure.

IT IS FURTHER ORDERED that Liberty Utilities (Litchfield Park Water and Sewer), Corp. shall file, as a compliance item in this docket, no later than December 31, 2015, a copy of the Certificate of Approval to Construct for Phase I of the extension area for wastewater infrastructure.

IT IS FURTHER ORDERED that Liberty Utilities (Litchfield Park Water and Sewer), Corp. shall file, as a compliance item in this docket, no later than December 31, 2015, a copy of the county franchise agreement for the extension area.

IT IS FURTHER ORDERED that if Liberty Utilities (Litchfield Park Water and Sewer), Corp. fails to meet the above timeframes, the Commission's Decision granting the extension of Liberty Utilities (Litchfield Park Water and Sewer), Corp.'s water and wastewater CC&Ns be

considered null and void, after due process.

IT IS FURTHER ORDERED that the application of Valley Utilities Water Company, Inc. for an extension of its Certificate of Convenience and Necessity is hereby denied.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, JODI JERICH, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_\_ day of \_\_\_\_\_ 2015.

JODI JERICH  
EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

SP:ru

1 SERVICE LIST FOR: LIBERTY UTILITIES (LITCHFIELD PARK WATER  
2 AND SEWER), CORP. AND VALLEY UTILITIES  
3 DOCKET NOS.: W-01427A-14-0134; SW-01428A-14-0180; AND W-  
4 01412A-14-0262  
5 Patrick Black  
6 FENNEMORE CRAIG, PC  
7 2394 E. Camelback Road, Suite 600  
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17 2525 E. Camelback Rd., Seventh Floor  
18 Phoenix, AZ 85016  
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20 Janice Alward, Chief Counsel  
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22 ARIZONA CORPORATION COMMISSION  
23 1200 West Washington Street  
24 Phoenix, AZ 85007  
25 Steven M. Olea, Director  
26 Utilities Division  
27 ARIZONA CORPORATION COMMISSION  
28 1200 West Washington Street  
Phoenix, AZ 85007

**EXHIBIT A**

That portion of Section 2, Township 2 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona more particularly described as follows:

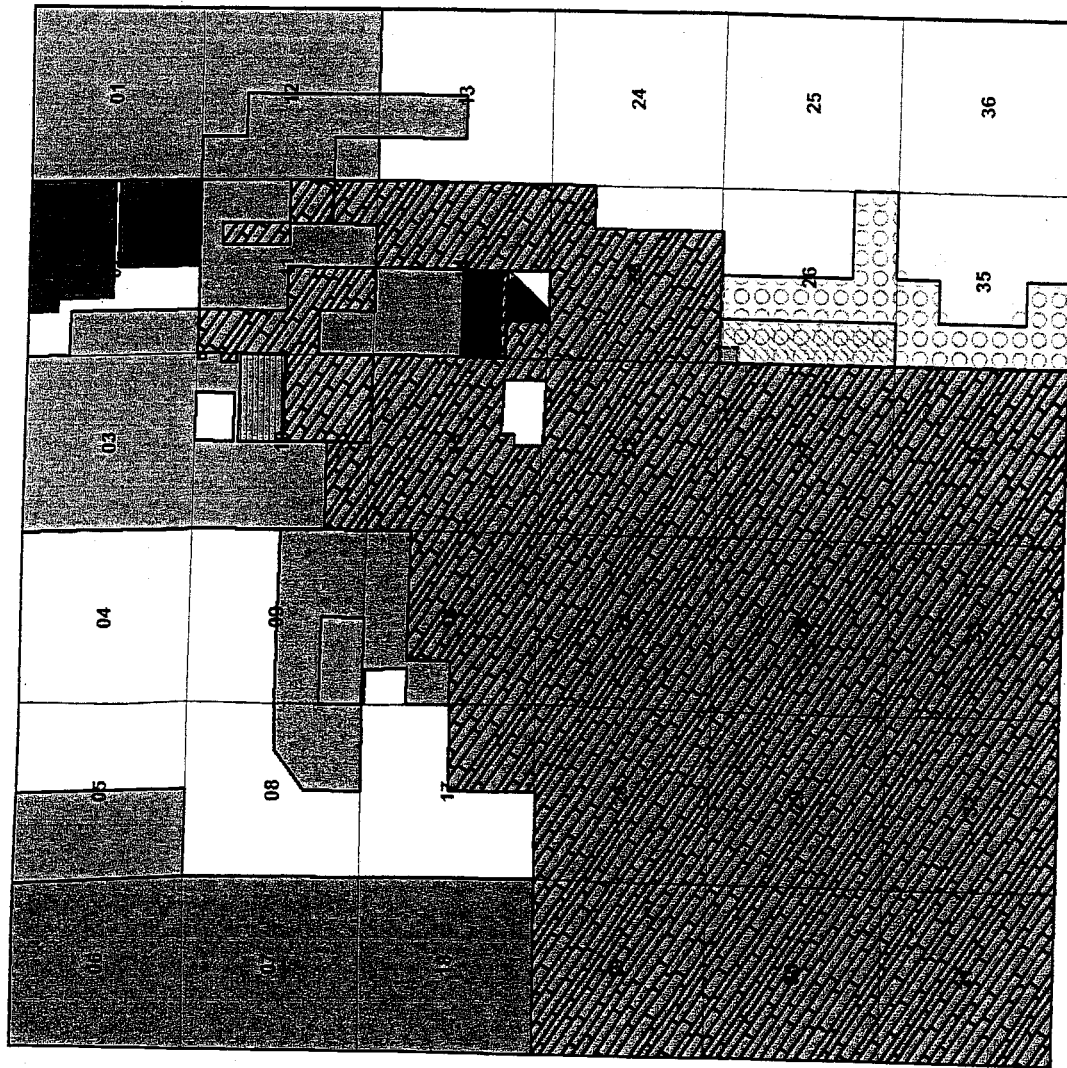
The Northeast Quarter of said Section 2;  
EXCEPT the south 20.00 feet of said Northeast Quarter;

The East  $\frac{1}{4}$  of the Northwest Quarter of said Section 2;  
EXCEPT the south 20.00 feet of said Northwest Quarter, and;  
the west 400.44 feet of the south 1,724.91 feet of said Northwest Quarter;

The Southeast Quarter of said Section 2;  
EXCEPT the north 140.00 feet of said Southeast Quarter.














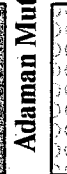

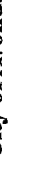




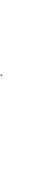
# MARICOPA COUNTY

## RANGE 1 West



## TOWNSHIP 2 North

## Map No. 17

	W-01997A (2)
	Adaman Mutual Water Company
	W-01427A (4)
	Litchfield Park Service Company
	SW-01428A (4)
	Litchfield Park Service Company
	W-02076A (1)
	Tierra Buena Water Company
	W-01412A (1)
	Valley Utilities Water Company, Inc.
	Sewer (1)
	Casitas Bonitas Wastewater Improvement District (Nonjurisdictional)
	(1)
	Adaman Mutual Water Company (Contiguous Area)
	Sewer (4)
	City of Avondale (Nonjurisdictional)
	(1)
	Liberty Utility Corp.
	(Litchfield Park Water and Sewer)
	Docket No. W-01427A-14-0134
	Request for Extension (Water)

DOCKET NO. W-01427A-14-0134 ET AL.



Prepared by:  
Arizona Corporation Commission  
Utilities Division  
Engineering Section/GIS Mapping  
602-542-4251

Pursuant to ARS § 39-121.03 this map is 'Not for Commercial Use'

TR2NIW 05 JUN 2005

DECISION NO. \_\_\_\_\_